

111TH CONGRESS
1ST SESSION

S. 442

To impose a limitation on lifetime aggregate limits imposed by health plans.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 13, 2009

Mr. DORGAN (for himself and Ms. SNOWE) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To impose a limitation on lifetime aggregate limits imposed
by health plans.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Health Insurance Cov-
5 erage Protection Act”.

6 **SEC. 2. AMENDMENTS TO THE EMPLOYEE RETIREMENT IN-**
7 **COME SECURITY ACT OF 1974.**

8 (a) IN GENERAL.—Subpart B of part 7 of subtitle
9 B of title I of the Employee Retirement Income Security

1 Act of 1974 (29 U.S.C. 1185 et seq.) is amended by add-
 2 ing at the end the following:

3 **“SEC. 714. LIMITATION ON LIFETIME AGGREGATE LIMITS.**

4 “(a) IN GENERAL.—A group health plan and a health
 5 insurance issuer providing health insurance coverage in
 6 connection with a group health plan, may not impose an
 7 aggregate dollar lifetime limit of less than—

8 “(1) with respect to the first 2 plan years after
 9 the effective date of this section, \$5,000,000;

10 “(2) with respect to the third and fourth plan
 11 years after such date, \$10,000,000; and

12 “(3) with respect to each subsequent year, the
 13 amount for the previous year adjusted by the per-
 14 centage increase in the consumer price index (for all
 15 urban consumers) for such year;

16 with respect to benefits payable under the plan or cov-
 17 erage.

18 “(b) SMALL EMPLOYERS.—

19 “(1) IN GENERAL.—Subsection (a) shall not
 20 apply to any group health plan (and group health in-
 21 surance coverage offered in connection with a group
 22 health plan) offered to or maintained for employees
 23 of a small employer, except that upon the request of
 24 such a small employer, the plan involved shall pro-
 25 vide for the application of an aggregate dollar life-

1 time limit that is consistent with the limit required
2 under such subsection.

3 “(2) SMALL EMPLOYER.—For purposes of
4 paragraph (1), the term ‘small employer’ means an
5 employer who normally employed fewer than 20 em-
6 ployees on a typical business day during the pre-
7 ceding calendar year and who employs fewer than 20
8 employees on the first day of the plan year.

9 “(3) APPLICATION OF CERTAIN RULES IN DE-
10 TERMINATION OF EMPLOYER SIZE.—For purposes of
11 this subsection—

12 “(A) APPLICATION OF AGGREGATION RULE
13 FOR EMPLOYERS.—Rules similar to the rules
14 under subsections (b), (c), (m), and (o) of sec-
15 tion 414 of the Internal Revenue Code of 1986
16 shall apply for purposes of treating persons as
17 a single employer.

18 “(B) EMPLOYERS NOT IN EXISTENCE IN
19 PRECEDING YEAR.—In the case of an employer
20 which was not in existence throughout the pre-
21 ceding calendar year, the determination of
22 whether such employer is a small employer shall
23 be based on the number of employees that it is
24 reasonably expected such employer will normally

1 employ on a typical business day in the current
2 calendar year.

3 “(C) PREDECESSORS.—Any reference in
4 this subsection to an employer shall include a
5 reference to any predecessor of such employer.

6 “(c) DEFINITION.—In this section, the term ‘aggre-
7 gate dollar lifetime limit’ means, with respect to benefits
8 under a group health plan or health insurance coverage,
9 a dollar limitation on the total amount that may be paid
10 with respect to such benefits under the plan or health in-
11 surance coverage with respect to an individual or other
12 coverage unit.”.

13 (b) CLERICAL AMENDMENT.—The table of contents
14 in section 1 of such Act, is amended by inserting after
15 the item relating to section 713 the following new item:

“Sec. 714. Limitation on lifetime aggregate limits.”.

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall apply with respect to plan years begin-
18 ning on or after the date that is 1 year after the date
19 of enactment of this Act.

20 **SEC. 3. AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT**
21 **RELATING TO THE GROUP MARKET.**

22 (a) IN GENERAL.—Subpart 2 of part A of title
23 XXVII of the Public Health Service Act (42 U.S.C.
24 300gg–4 et seq.) is amended by adding at the end the
25 following:

1 **“SEC. 2707. LIMITATION ON LIFETIME AGGREGATE LIMITS.**

2 “(a) IN GENERAL.—A group health plan and a health
3 insurance issuer providing health insurance coverage in
4 connection with a group health plan, may not impose an
5 aggregate dollar lifetime limit of less than—

6 “(1) with respect to the first 2 plan years after
7 the effective date of this section, \$5,000,000;

8 “(2) with respect to the third and fourth plan
9 years after such date, \$10,000,000; and

10 “(3) with respect to each subsequent year, the
11 amount for the previous year adjusted by the per-
12 centage increase in the consumer price index (for all
13 urban consumers) for such year;
14 with respect to benefits payable under the plan or cov-
15 erage.

16 “(b) SMALL EMPLOYERS.—

17 “(1) IN GENERAL.—Subsection (a) shall not
18 apply to any group health plan (and group health in-
19 surance coverage offered in connection with a group
20 health plan) offered to or maintained for employees
21 of a small employer, except that upon the request of
22 such a small employer, the plan involved shall pro-
23 vide for the application of an aggregate dollar life-
24 time limit that is consistent with the limit required
25 under such subsection.

1 “(2) SMALL EMPLOYER.—For purposes of
 2 paragraph (1), the term ‘small employer’ means an
 3 employer who normally employed fewer than 20 em-
 4 ployees on a typical business day during the pre-
 5 ceding calendar year and who employs fewer than 20
 6 employees on the first day of the plan year.

7 “(3) APPLICATION OF CERTAIN RULES IN DE-
 8 TERMINATION OF EMPLOYER SIZE.—For purposes of
 9 this subsection—

10 “(A) APPLICATION OF AGGREGATION RULE
 11 FOR EMPLOYERS.—Rules similar to the rules
 12 under subsections (b), (c), (m), and (o) of sec-
 13 tion 414 of the Internal Revenue Code of 1986
 14 shall apply for purposes of treating persons as
 15 a single employer.

16 “(B) EMPLOYERS NOT IN EXISTENCE IN
 17 PRECEDING YEAR.—In the case of an employer
 18 which was not in existence throughout the pre-
 19 ceding calendar year, the determination of
 20 whether such employer is a small employer shall
 21 be based on the number of employees that it is
 22 reasonably expected such employer will normally
 23 employ on a typical business day in the current
 24 calendar year.

1 “(C) PREDECESSORS.—Any reference in
 2 this subsection to an employer shall include a
 3 reference to any predecessor of such employer.

4 “(c) DEFINITION.—In this section, the term ‘aggre-
 5 gate dollar lifetime limit’ means, with respect to benefits
 6 under a group health plan or health insurance coverage,
 7 a dollar limitation on the total amount that may be paid
 8 with respect to such benefits under the plan or health in-
 9 surance coverage with respect to an individual or other
 10 coverage unit.”.

11 (b) EFFECTIVE DATE.—The amendment made by
 12 this section shall apply with respect to plan years begin-
 13 ning on or after the date that is 1 year after the date
 14 of enactment of this Act.

15 **SEC. 4. STUDY BY THE INSTITUTE OF MEDICINE.**

16 The Secretary of Health and Human Services shall
 17 enter into a contract with the Institute of Medicine for
 18 the conduct of a study to determine the number of individ-
 19 uals who have reached the lifetime limitations set forth
 20 in the amendments made by this Act beginning in the
 21 third plan year for which such amendments apply. Not
 22 later than 1 year after the date on which the study is con-
 23 ducted under the previous sentence, the Institute of Medi-
 24 cine shall submit to the Secretary and the appropriate

- 1 committees of Congress a report concerning the results of
- 2 the study.

